



FOR CLERK USE ONLY

City Council

Item No. _____

CITY COUNCIL AGENDA FACT SHEET

GENERAL SERVICES

Department

Nov 3, 2009

Requested Date

1. Request:

Council Approval

Information Only/
Presentation

Other (specify)



Hearing



2. Requested Action:

AUTHORIZE CITY MANAGER OR HIS DESIGNEE TO SIGN THE AGREEMENT WITH W2 DESIGN ENGINEERING, INC. TO PROVIDE ENGINEERING CONSULTANT SERVICES FOR THE PREPARATION OF THE UPDATES OF THE ENG. STUDY REPORT FOR THE NORTHWEST AREA BENEFIT IMPACT FEE ASSESSMENT REPORT

3. Fiscal Impact:

Revenue:

Increase



Source: _____

Decrease



Amount: \$ _____

Cost:

Increase



Source: FLIND 213-57003-3141

Decrease



Amount: \$ 26,100.00

Does Not Apply



4. Reviewed By:

Finance Dept. on _____

By: _____

Comments: _____

City Attorney on _____

By: _____

Comments: _____

Note: Back up must be submitted along with this form. Deadline is 5:00 p.m., 2 Fridays before the scheduled meeting date.

CLERK USE ONLY:

CITY COUNCIL DATE: _____

Action



Filing



Consent



Presentation



Hearing



Other(specify)



Reviewed by: City Clerk _____

City Manager _____

Date _____

Date _____

CITY COUNCIL AGENDA REPORT

SUBJECT: Consultant Engineering Services Agreement to prepare Northwest Area Benefit Impact Fee Assessment Report Update.

AGENDA DATE: November 3, 2009

PREPARED BY: Veronica Atondo, P.E., Interim Engineering Manager

REVIEWED BY: Nick Fenley, General Services Director

APPROVED FOR AGENDA BY: Victor M. Carrillo, City Manager

RECOMMENDATION: The City Council approve the following: Authorize City Manager or his designee to sign an Agreement with W2 Design Engineering, Inc. to provide engineering consultant services to prepare the update of the Engineering Study Report for the Northwest Area Benefit Impact Fee Assessment Report to include Utility Improvements to all the affected land parcels.

FISCAL IMPACT: \$26,100.00 (Measure "D" Funding)

BACKGROUND INFORMATION: (Prior action/information)

W2 Design, Inc. prepared in the recent years several studies and project reports for the Cole Blvd. Area and the Northwest Area. City staff requested a proposal to provide engineering services to W2 Design, Inc. to prepare the upgrade of the subject study due to the fact that the original study was prepared by this firm. The City Attorney and the Interim Engineering Manager have reviewed the scope of work for the preparation of the update of the Engineering Study Report for the Northwest Area Benefit Impact Fee Assessment Report to include Utility Improvements to all the affected land parcels.

DISCUSSION (Current consideration): The purpose of the update of this study is to calculate the Northwest Area Benefit Impact Fee Assessment and meet the requirements for the establishment of the subject fees for the purpose of defraying a portion of the cost of public facilities related to the development projects as well as the maintenance and rehab of existing infrastructure. As part of the Economic Development Administration Grant project a portion of the funding was proposed to be collected from assessment fees. This study will provide the background necessary for the establishment of the fairshare fees.

DOCUMENT(S) ATTACHED:

1. Standard Agreement for Professional Engineering Consultant Services

AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is made and entered into as of the ___ day of _____, 2009, by and between the City of Calexico ("City") and W2 Design, Inc., ("Consultant").

RECITALS

A. Consultant is specially trained, experienced and competent to perform the special services which will be required by this Agreement; and

B. Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement on the terms and conditions described herein.

AGREEMENT

1. Scope of Services. The Consultant shall furnish the following services in a professional manner. Consultant shall perform the services described on Exhibit A which is attached hereto and incorporated herein by reference. Consultant shall provide said services at the time, place, and in the manner specified in Exhibit A, subject to the direction of the City through its staff that it may provide from time to time.

2. Time of Performance. The services of Consultant are to commence upon execution of this Agreement and shall continue until all authorized work is approved by the City. All such work shall be completed no later than February 28, 2010. Time is of the essence for every provision of this agreement that states a time for performance and for every deadline imposed by the City.

3. Compensation. Compensation to be paid to Consultant shall be in accordance with the Schedule of Charges set forth in Exhibit B, which is attached hereto and incorporated herein by reference. In no event shall Consultant's compensation exceed 26,100.00 without additional authorization from the City. Payment by City under this Agreement shall not be deemed a waiver of defects, even if such defects were known to the City at the time of payment.

4. Method of Payment. Consultant shall submit monthly billings to City describing the work performed during the preceding month. Consultant's bills shall include a brief description of the services performed, the date the services were performed, the number of hours spent and by whom, and a description of any reimbursable expenditures. City shall pay Consultant no later than 30 days after approval of the monthly invoice by City staff. When payments made by City equal 90% of the maximum fee provided for in this Agreement, no further payments shall be made until the final work under this Agreement has been accepted by City.

5. Ownership of Documents. All plans, studies, documents and other writings prepared by and for Consultant, its officers, employees and agents and subcontractors in the course of implementing this Agreement, except working notes and internal documents, shall become the property of the City upon payment to Consultant for such work, and the City shall have the sole right to use such materials in its discretion without further compensation to Consultant or to any other party. Consultant shall, at Consultant's expense, provide such reports, plans, studies, documents and other writings to City upon written request.

6. Independent Contractor. It is understood that Consultant, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and shall not act as an agent or employee of the City. Consultant shall obtain no rights to retirement benefits or other benefits which accrue to City's employees, and Consultant hereby expressly waives any claim it may have to any such rights.

7. Interest of Consultant. Consultant (including principals, associates and professional employees) covenants and represents that it does not now have any investment or interest in real property and shall not acquire any interest, direct or indirect, in the area covered by and during this Agreement or any other source of income, interest in real property or investment which would be affected in any manner or degree by the performance of Consultant's services hereunder. Consultant further covenants and represents that in the performance of its duties hereunder no person having any such interest shall perform any services under this Agreement.

Consultant is not a designated employee within the meaning of the Political Reform Act because Consultant:

- a. will conduct research and arrive at conclusions with respect to his/her rendition of information, advice, recommendation or counsel independent of the control and direction of the City or of any City official, other than normal agreement monitoring; and
- b. possesses no authority with respect to any City decision beyond rendition of information, advice, recommendation or counsel. (FPPC Reg. 18700(a)(2).)

8. Professional Ability of Consultant. City has relied upon the professional training and ability of Consultant to perform the services hereunder as a material inducement to enter into this Agreement. Consultant shall therefore provide properly skilled professional and technical personnel to perform all services under this Agreement. All work performed by Consultant under this Agreement shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Consultant's field of expertise.

9. Indemnity. Consultant [or however design professional is referenced] agrees to indemnify, including the cost to defend, the City, and its officers, agents and employees from any and all claims, demands, costs or liability that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant and its agents in the performance of services under this contract. This indemnity does not apply to liability for damages for death or bodily injury to persons, injury to property, or other loss, damage or expense arising from the sole negligence, willful misconduct or defects in design by the City or its agents, servants, or

independent contractors who are directly responsible to the City, or the active negligence of the City.

10. Insurance Requirements.

a. Consultant, at Consultant's own cost and expense, shall procure and maintain, for the duration of the contract, the following insurance policies.

i. Workers' Compensation Coverage. Consultant shall maintain Workers' Compensation Insurance and Employer's Liability Insurance for his/her employees in accordance with the laws of the State of California. In addition, Consultant shall require each subcontractor to similarly maintain Workers' Compensation Insurance and Employer's Liability Insurance in accordance with the laws of the State of California for all of the subcontractor's employees. Any notice of cancellation or non-renewal of all Workers' Compensation policies must be received by the City at least thirty (30) days prior to such change. The insurer shall agree to waive all rights of subrogation against City, its officers, agents, employees and volunteers for losses arising from work performed by Consultant for City. This provision shall not apply if Consultant has no employees performing work under this Agreement. If the Consultant has no employees for the purposes of this Agreement, Consultant shall sign the "Certificate of Exemption from Workers' Compensation Insurance" which is attached hereto as Exhibit C.

ii. General Liability Coverage. Consultant shall maintain commercial general liability insurance in an amount not less than one million dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If a commercial general liability insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit.

iii. Automobile Liability Coverage. Consultant shall maintain automobile liability insurance covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with the work to be performed under this Agreement, including coverage for owned, hired and non-owned vehicles, in an amount of not less than one million dollars (\$1,000,000) combined single limit for each occurrence.

iv. Errors and Omissions Liability. Consultant shall maintain errors and omissions liability insurance for all work performed under this Agreement in an amount of not less than one million dollars (\$1,000,000).

b. Policy Endorsements. Each general liability and automobile liability insurance policy shall be with insurers possessing a Best's rating of no less than A:VII and shall be endorsed with the following specific language:

i. The City of Calexico, its elected or appointed officers, officials, employees, agents and volunteers are to be covered as additional insureds with respect to liability arising out of work performed by or on behalf of the Consultant, including materials, parts or equipment furnished in connection with such work or operations.

ii. This policy shall be considered primary insurance as respects the City, its elected or appointed officers, officials, employees, agents and volunteers. Any insurance maintained by the City, including any self-insured retention the City may have, shall be considered excess insurance only and shall not contribute with it.

iii. This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.

iv. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected or appointed officers, officials, employees, agents or volunteers.

v. The insurance provided by this policy shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days written notice has been received by the City.

c. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. At the City's option, Consultant shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

d. Certificates of Insurance and Endorsements. Consultant shall provide certificates of insurance with original endorsements to City as evidence of the insurance coverage required herein. Certificates of such insurance shall be filed with the City on or before commencement of performance of this Agreement. Current certification of insurance shall be kept on file with the City at all times during the term of this Agreement.

11. Compliance with Laws. Consultant shall use the standard of care in its profession to comply with all applicable federal, state and local laws, codes, ordinances and regulations.

12. Licenses. Consultant represents and warrants to City that it has all licenses, permits, qualifications, insurance and approvals of whatsoever nature which are legally required of Consultant to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, insurance and approvals which are legally required of Consultant to practice its profession. Consultant shall obtain a City of Calexico Business License.

14. **Written Notification.** Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing and either served personally or sent prepaid, first class mail. Any such notice, demand, etc. shall be addressed to the other party at the address set forth herein below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section.

If to Consultant:

a. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to City for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant to this Agreement.

c. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City Manager, City Attorney, City Auditor or a designated representative of these officers. Copies of such documents shall be provided to the City for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Consultant's address indicated for receipt of notices in this Agreement.

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16. Entire Agreement. This Agreement constitutes the complete and exclusive statement of Agreement between the City and Consultant. All prior written and oral communications, including correspondence, drafts, memoranda, and representations, are superseded in total by this Agreement.

17. Amendments. This Agreement may be modified or amended only by a written document executed by both Consultant and City and approved as to form by the City Attorney.

18. Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder.

19. Execution. This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

20. Assignment and Subcontracting. The parties recognize that a substantial inducement to City for entering into this Agreement is the professional reputation, experience and competence of Consultant. Assignments of any or all rights, duties or obligations of the Consultant under this Agreement will be permitted only with the express consent of the City. Consultant shall not subcontract any portion of the work to be performed under this Agreement without the written authorization of the City. If City consents to such subcontract, Consultant shall be fully responsible to City for all acts or omissions of the subcontractor. Nothing in this Agreement shall create any contractual relationship between City and subcontractor nor shall it create any obligation on the part of the City to pay or to see to the payment of any monies due to any such subcontractor other than as otherwise is required by law.

21. Termination. This Agreement may be terminated immediately for cause or by either party without cause upon fifteen days' written notice of termination. Upon termination, Consultant shall be entitled to compensation for services performed up to the effective date of termination.

///

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first written above.

CITY OF CALEXICO:

CONSULTANT:

Victor M. Carrillo
City Manager

APPROVED AS TO FORM:

ATTEST:

Jennifer M. Lyon
City Attorney

Lourdes Cordova
City Clerk

EXHIBIT A
SCOPE OF SERVICES



Proposal

Proposal to Provide Civil Engineering Services for

Client:

Mr. Nick Fenley, Director of Community Services Dept.
(C/O) Mr. Armando G. Villa
Director of Planning and Development Services
Attn: Veronica Atondo, Interim Engineering Manager
Community Development Services Department
City of Calexico
608 Heber Ave
Calexico, CA 92231

Project Location/Name/Description:
City of Calexico**Northwest Area Benefit
Impact Fee Assessment Report**

Re: Proposal to Update Engineering Study Report for the Northwest Area Benefit Impact Fee Assessment Report to include Utilities Improvement of All Affect Land Parcels.

Dear Mr. Fenley/Ms Atondo

W2 Design, Inc. is please to submit this proposal per your request. We have prepared the following proposal and fee estimate to assist the City in updating the Engineering Study Report for the Northwest Area Benefit Assessment to include Utilities Improvement of All Affect Land Parcels.

Proposed Scope of Work

A. Report Phase 1

We propose to complete the necessary update of the prior Engineering Study Document through the following tasks. The Study Report document will be prepared in conformance with the requirements of the City Standard and assembling of all separately prepared drawings and parcel information furnished by the City.

Tasks

W2DI Preparation of Engineering Study Report and/or Update of Prior Engineering Documents

A. Phase 1 - Report

1. Review Prior Documents and Assessment Parcel information as furnished by the City
2. Update Engineering Study Report and Cost Estimate.
3. Evaluate Street and Utilities Improvement Requirement.
4. Prepare and update map requirement
5. Prepare Agenda Staff Report and Resolution
6. Prepare Notice of Intent for City to use for advertising and placement of notice.
7. Coordination with City Attorney and Staff.

B. Hearing Phase 2

Tasks



Proposal

Task 8. Assist City in Progress Reports and Project management functions and Meetings or hearing as required.

Fee Proposal

The Proposal is as followed:

Fee

A. Phase 1 Report Tasks 1-7 (Lump Sump)

\$ 22,500.00

B. Phase 2 Hearing and/or Meeting

At Standard Hourly Rate as needed
(T&M).if required. Estimate budget
of 16Task 8 hours at \$175.00/hr =
\$2,800.00

C. Other Direct Cost (ODC) – Travel

Reimbursable-

and Report Reproductions (Estimated)

\$ 800.00

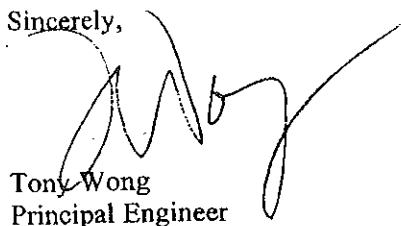
Any work required that is not specified above, such as an unanticipated large number of comments on the final documents and meetings, would be done on a time and materials (T&M) basis using the W2 Design, Inc. standard rate schedule in effect for the calendar year in which the work is performed. Any such additional work would first be agreed to in writing between the City of Calexico and W2 Design, Inc. or as directed and authorized by the City.

Schedule

Upon receiving notice to proceed and/or signed proposal, we propose to deliver a draft of the Study Report Document within six to eight weeks of your furnished information.

Please call me at (626)396-9855 if you have any questions regarding our proposal. We look forward to working with the City of Calexico on this assignment.

Sincerely,


Tony Wong
Principal Engineer

Attachments: Fee Schedule

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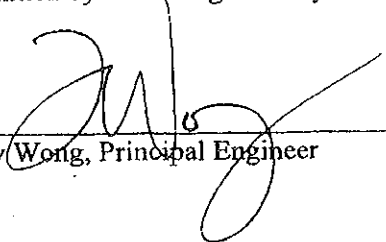
50 South De Lacey Avenue
Suite 100
Pasadena, California 91105

Telephone: (626) 396-9855
FAX: (626) 405-8005
email: info@w2designinc.com



Proposal

Submitted by W2 Design Inc. by:



Tony Wong, Principal Engineer

Date October 26, 2009

Approved and accepted by:

Signature

and Print Name: _____

Date:

Please sign, date, and return an original signed copy to W2 Design Inc.

EXHIBIT B
SCHEDULE OF CHARGES

EXHIBIT B
SCHEDULE OF CHARGES



Fee Schedule

Professional Fee Schedule for Professional & Technical Design Services
Effective January 1, 2009 through December 31, 2009

A. OFFICE PERSONNEL

Principal	\$175.00/hour
Project Manager	145.00/hour
GIS Manager	110.00/hour
Project Engineer/Project Surveyor	110.00/hour
Design Engineer/Field Inspector	85.00/hour
Technician/Drafter/CAD	65.00/hour
Administrative Support	50.00/hour

B. FIELD SURVEY

2-man crew	\$225.00/hour
3-man crew	300.00/hour

C. REPRODUCTION/PLOTS

In-house plot on reproducible bond (24x36)	\$10.00/plot
In-house plot on reproducible bond (30x42)	15.00/plot

NOTES:

1. Reimbursable services of costs such as prints, reproduction, computer charges, survey equipment, messengerial service, travel, mileage, and special outside consultants are at cost plus fifteen percent (15%).
2. The above schedule is for straight time. Overtime shall be charged at 150% of the standard hourly rates. Sundays and holidays shall be at 170% of the standard hourly rates.

EXHIBIT C

CERTIFICATE OF EXEMPTION FROM WORKERS' COMPENSATION INSURANCE

I hereby certify that in the performance of the work for which this Agreement is entered into, I shall not employ any person in any manner so as to become subject to the Workers' Compensation Laws of the State of California.

Executed on this _____ day of _____, 2009, at _____,
California.

Consultant